

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

(Attorney Docket No. 17475US02)

In the Application of:

Akira Yamanaka et al.

Serial No.: 10/773,610

Filed: February 6, 2004

For: METHOD AND SYSTEM FOR
EQUALIZATION IN A
COMMUNICATIONS SYSTEM

Examiner: Emmanuel Bayard

Group Art Unit: 2611

Confirmation No.: 7768

Transmitted via the Office electronic filing
system **September 30, 2010.**

**APPLICATION FOR RECONSIDERATION OF THE
DETERMINATION OF PATENT TERM ADJUSTMENT
UNDER 35 U.S.C. 154(b)
ACCOMPANYING THE NOTICE OF ALLOWANCE
(37 CFR § 1.705)**

Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Sir:

The applicant respectfully requests reconsideration of the Determination of Patent Term Adjustment Under 35 U.S.C. 154(b) (PTOL-85) accompanying the Notice of Allowance mailed July 9, 2010 ("the Decision"), to the extent indicated in the following discussion and the enclosed modified version of the USPTO Patent Term Adjustment calculation on PAIR. This application for reconsideration of the Decision is being filed after the date of mailing of the Notice of Allowance and no later than the payment of the issue fee.

This application for reconsideration of the Decision is accompanied by the fee set forth in § 1.18(e) (\$200).

This application for reconsideration of the Decision includes below a statement of the facts involved in sufficient detail to allow the United States

Patent and Trademark Office (USPTO) to reach the correct patent term adjustment respecting the disputed items.

The Applicant's calculation shows that the correct patent term adjustment should be 1737 days.

The bases under § 1.702 for the adjustment are as follows.

Positive Patent Term Adjustment

Three Year Guarantee (35 USC § 154(b)(1)(B))

The USPTO calculation of the patent term adjustment under the three-year deadline for issuing a patent after its filing date was 0 days. The Applicant disagrees with this determination because the patent term adjustment on this ground should instead be 1063 days, minus 23 days consumed by an appeal, for a net adjustment of 1040 days.

Specifically, the enclosed modified version of the USPTO Patent Term Adjustment calculation on PAIR shows that:

- the actual filing date of the application was February 6, 2004,
- the third anniversary of the actual filing date was February 6, 2007,
- the first request for continued examination of the application (RCE) under 35 USC 132(b) was filed on January 4, 2010.
- the first RCE was filed 1063 days after the third anniversary of the actual filing date, which is the appropriate patent term adjustment on this ground.

The patent term adjustment under the three-year rule was reduced by an appeal.

- review by the Board or a Federal court began on the date the Notice of Appeal was filed, i.e. November 27, 2007,
- the time consumed by review by the Board or a Federal court ended on the date of (1) a Board of Patent Appeals and

Interferences decision, a Federal court decision, or a Board remand, or (2) the date prosecution was reopened, i.e. December 20, 2007,

- the time consumed by the appeal thus ended on December 20, 2007, after an interval of 23 days.
- The patent term adjustment under the three-year rule of 1063 days, reduced by appeal time of 23 days, is thus 1040 days.

Reductions in Patent Term Adjustment

Removing Overlap

- Two or more grounds of delay overlap from February 6, 2007, to March 20, 2007, totaling 42 days of delay.

This overlap has been subtracted from the patent term adjustment in the enclosed modified version of the USPTO Patent Term Adjustment calculation on PAIR.

Net Patent Term Adjustment

The changes requested by the Applicant to the USPTO patent term adjustment determination in the Decision are as follows:

Three Year Guarantee (35 USC § 154(b)(1)(B))

| | Patent Term Adjustment (days) |
|------------------------------|--|
| USPTO Calculation | 0 |
| Applicant Calculation | 1040 |

Reductions in Patent Term Adjustment

- **Removing Overlap**

| | Patent Term Adjustment (days) |
|------------------------------|--|
| USPTO Calculation | 0 |
| Applicant Calculation | 42 |

Conclusion

The Applicant requests modification of the patent term adjustment as indicated above. As shown in the enclosed modified version of the USPTO Patent Term Adjustment calculation on PAIR, the patent term adjustment proposed by the Applicant is thus 1737 days.

Please charge any fees or credit any overpayment of fees presently required to McAndrews, Held & Malloy, Ltd., Deposit Account No. 13-0017.

Respectfully submitted,

McANDREWS, HELD & MALLOY, LTD.

Dated: 30-SEP-2010

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| DATE | EVENT | PTO Delay | Appl. Delay |
|----------------|--|---------------|----------------|
| 10/22/2007 | Amendment after Final Rejection | " | |
| 8/30/2007 | Mail Final Rejection (PTOL - 326) | | |
| 8/28/2007 | Final Rejection | | |
| 6/25/2007 | Date Forwarded to Examiner | | |
| 6/19/2007 | New or Additional Drawing Filed | | |
| 6/19/2007 | Response after Non-Final Action | | |
| 3/20/2007 | Mail Non-Final Rejection | 713 | |
| 3/19/2007 | Non-Final Rejection | " | |
| 2/27/2007 | Case Docketed to Examiner in GAU | " | |
| 2/6/2007 | Three year date | | |
| 7/11/2006 | Correspondence Address Change | " | |
| 7/11/2006 | Change in Power of Attorney (May Include Associate POA) | " | |
| 3/21/2006 | Case Docketed to Examiner in GAU | " | |
| 11/17/2005 | Case Docketed to Examiner in GAU | " | |
| 6/20/2005 | IFW TSS Processing by Tech Center Complete | " | |
| 6/20/2005 | Case Docketed to Examiner in GAU | " | |
| 4/6/2005 | 14 month date | | |
| 9/5/2004 | Transfer Inquiry to GAU | " | |
| 8/3/2004 | Application Return from OIPE | " | |
| 8/3/2004 | Application Return TO OIPE | " | |
| 8/3/2004 | Application Is Now Complete | " | |
| 8/2/2004 | Application Dispatched from OIPE | " | |
| 7/6/2004 | Additional Application Filing Fees | " | |
| 7/6/2004 | A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic | " | |
| 5/7/2004 | Notice Mailed--Application Incomplete--Filing Date Assigned | " | |
| 3/17/2004 | Cleared by OIPE CSR | " | |
| 2/19/2004 | IFW Scan & PACR Auto Security Review | " | |
| 2/6/2004 | Initial Exam Team nn | " | |
| | | PTO (Days) | APPL (Days) |
| PTA >>>>>>>>>> | | 739 | 0 |
| | | 739 Days | |

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|------------|---|----------------------|
| 10/773,610 | METHOD AND SYSTEM FOR EQUALIZATION IN A COMMUNICATIONS SYSTEM | 07-16-2010::12:44:13 |
|------------|---|----------------------|

Patent Term Adjustments

| | | | |
|---|------------|--------------------------------------|-----|
| Patent Term Adjustment (PTA) for Application Number: 10/773,610 | | | |
| Filing or 371(c) Date: | 02-06-2004 | USPTO Delay (PTO) Delay (days): | - |
| Issue Date of Patent: | - | Three Years: | - |
| Pre-Issue Petitions (days): | - | Applicant Delay (APPL) Delay (days): | - |
| Post-Issue Petitions (days): | - | Total PTA (days): | 739 |
| USPTO Adjustment(days): | - | Explanation Of Calculations | |

Patent Term Adjustment History

| Date | Contents Description | PTO(Days) | APPL(Days) |
|------------|--|-----------|------------|
| 07-09-2010 | Mail Notice of Allowance | | |
| 07-08-2010 | Notice of Allowance Data Verification Completed | | |
| 07-08-2010 | Document Verification | | |
| 05-07-2010 | Date Forwarded to Examiner | | |
| 04-29-2010 | Response after Non-Final Action | | |
| 01-29-2010 | Mail Non-Final Rejection | | |
| 01-29-2010 | Non-Final Rejection | | |
| 01-07-2010 | Date Forwarded to Examiner | | |
| 01-04-2010 | Request for Continued Examination (RCE) | | |
| 01-07-2010 | Disposal for a RCE / CPA / R129 | | |
| 01-04-2010 | Workflow - Request for RCE - Begin | | |
| 10-30-2009 | Mail Final Rejection (PTOL - 326) | | |
| 10-29-2009 | Final Rejection | | |
| 09-03-2009 | Date Forwarded to Examiner | | |
| 07-08-2009 | Response after Non-Final Action | | |
| 04-08-2009 | Mail Non-Final Rejection | | |
| 04-07-2009 | Non-Final Rejection | | |
| 02-11-2009 | Date Forwarded to Examiner | | |
| 01-09-2009 | Response after Non-Final Action | | |
| 10-10-2008 | Mail Non-Final Rejection | | |
| 10-09-2008 | Non-Final Rejection | | |
| 07-29-2008 | Date Forwarded to Examiner | | |
| 06-19-2008 | Response after Non-Final Action | | |
| 03-19-2008 | Mail Non-Final Rejection | 26 | |
| 02-25-2008 | Non-Final Rejection | ⚡ | |
| 12-20-2007 | Date Forwarded to Examiner | ⚡ | |
| 12-20-2007 | Mail Appeals conf. Reopen Prosec. | ⚡ | |
| 12-19-2007 | Pre-Appeals Conference Decision - Reopen Prosecution | ⚡ | |
| 11-27-2007 | Request for Pre-Appeal Conference Filed | ⚡ | |
| 11-27-2007 | Notice of Appeal Filed | ⚡ | |
| 10-30-2007 | Mail Advisory Action (PTOL - 303) | ⚡ | |

| | | |
|------------|---|-----|
| 10-29-2007 | Advisory Action (PTOL-303) | ⚡ |
| 10-23-2007 | Date Forwarded to Examiner | ⚡ |
| 10-22-2007 | Amendment after Final Rejection | ⚡ |
| 08-30-2007 | Mail Final Rejection (PTOL - 326) | |
| 08-28-2007 | Final Rejection | |
| 06-19-2007 | New or Additional Drawing Filed | |
| 06-25-2007 | Date Forwarded to Examiner | |
| 06-19-2007 | Response after Non-Final Action | |
| 03-20-2007 | Mail Non-Final Rejection | 713 |
| 03-19-2007 | Non-Final Rejection | ⚡ |
| 02-27-2007 | Case Docketed to Examiner in GAU | ⚡ |
| 07-11-2006 | Correspondence Address Change | ⚡ |
| 07-11-2006 | Change in Power of Attorney (May Include Associate POA) | ⚡ |
| 03-21-2006 | Case Docketed to Examiner in GAU | ⚡ |
| 11-17-2005 | Case Docketed to Examiner in GAU | ⚡ |
| 06-20-2005 | IFW TSS Processing by Tech Center Complete | ⚡ |
| 06-20-2005 | Case Docketed to Examiner in GAU | ⚡ |
| 09-05-2004 | Transfer Inquiry to GAU | ⚡ |
| 08-03-2004 | Application Return from OIPE | ⚡ |
| 08-03-2004 | Application Return TO OIPE | ⚡ |
| 08-02-2004 | Application Dispatched from OIPE | ⚡ |
| 08-03-2004 | Application Is Now Complete | ⚡ |
| 07-06-2004 | Additional Application Filing Fees | ⚡ |
| 07-06-2004 | A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applicant | ⚡ |
| 05-07-2004 | Notice Mailed--Application Incomplete--Filing Date Assigned | ⚡ |
| 03-17-2004 | Cleared by OIPE CSR | ⚡ |
| 02-19-2004 | IFW Scan & PACR Auto Security Review | ⚡ |
| 02-06-2004 | Initial Exam Team nn | ⚡ |

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